

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ANDRE SMITH,

Petitioner,

- against -

JAMES T. CONWAY,

Respondent.

**REQUEST TO PROCEED
IN FORMA PAUPERIS**

07 Civ. 7174 (JGK)

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 8/22/08

I, ANDRE SMITH, am the petitioner in the above entitled case. In a Judgment/Order, dated June 25, 2008, this court (Honorable John G. Koeltl, J.) denied the habeas corpus petition in this matter. A timely notice of appeal was filed. In accordance with Rule 24 of the Federal Rules of Appellate Procedure, this court must make a determination regarding *in forma pauperis* status before the Court of Appeals can grant such relief.

I hereby request that *in forma pauperis* status is granted to allow me to proceed without being required to prepay fees or costs or give security therefore. I state that because of my poverty, I am unable to pay the costs associated with seeking to appeal this matter or to give security therefore, and I believe I am entitled to redress.

1. Defense Counsel was appointed to represent me at my state trial, appeal. The federal habeas corpus application was prepared and submitted Pro se.

2. I am not currently employed. I have been incarcerated nearly ^{SEVEN} ~~SEVEN~~ years.

3. I was not released on bail.

4. Prior to my incarceration, I was employed and I did receive an

*Application to proceed
in forma pauperis is granted,
so ordered.
8/24/08 JGK
U.S.D.-5.*

PRO SE OFFICE

Income.

5. I have no savings and receive no money other than the prison wage for attending program assignments, which goes to pay for toiletries and other needed items from the prison commissary.

6. The prison wage i receive is approximately \$8.00 per month.

7. I have no checking or savings account. i do not own any apartment, house or building, stocks, bonds, notes, automobiles or other property.

8. I am unable to pay the costs, fees and expenses necessary to prosecute an appeal in this matter.

9. No one else who is able to pay any required costs and fees has a beneficial interest in this results of this case.

Authorization for Release of Institutional Account Information

I, Andre Smith, hereby authorize the Clerk of the Court to obtain information from the institution as which i presently reside about deposits into and withdrawals from my account at this institution during the past six months to determine my eligibility to proceed in forma pauperis, pursuant to the provisions of 28 U.S.C. § 1915.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: July 15, 2008

Andre S. Smith

Andre Smith, Pro se

02A4600

Shawangunk Correctional Facility

POB 700

Wallkill, New York 12589

CERTIFICATE OF SERVICE

I, Andre Smith , make this declaration under the penalty of perjury (and in compliance with 28 U.S.C. § 1746) that on the below date I have served a copy of the within request to proceed *in forma pauperis* and *Notice of Appeal* by first class mail, and by placing a photocopy of the same in an envelope with prepaid postage being made. The same was placed in an official depository under the exclusive care and custody of the State of New York Department of Correctional Services. Such depository being one established for the purpose of mailing correspondence from inmates in the state's custody. The enclosed was addressed in care of the respondent at the following address:

**J. Michael McMahon,
Clerk of the Court
Southern District of New York
U.S. Courthouse - 600 Pearl Street,
New York, N.Y. 10007**

And

**Robert M. Morgenthau, Esq.,
New York County
One Hogan Place
New York, New York 10013**

Date: July 15, 2008



**Andre Smith, Pro se
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Shawangunk Correctional Facility
POB 700
Wallkill, New York 12589**